

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5123 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos. 1 to 5 No.

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VIMALBEN VASANTBHAI PATIL

Versus

COMMISSIONER OF POLICE  
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Appearance:

MR MC KAPADIA for Petitioner  
MR.NEEGAM SHUKLA for Respondents.  
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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 10.6.1996 passed by the Police Commissioner, Surat City detaining the detenu under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 14.6.1996 and since then the detenu is under detention lodged at Sabarmati Central

Jail, Ahmedabad.

This Special Civil Application was filed on 15.7.1996 and on 16.7.1996 Rule returnable for 19.8.1996 was issued but so far no reply or affidavit of the Detaining Authority has been filed. The grounds enclosed with the detention order show that three criminal cases under Bombay Prohibition Act were registered against the petitioner. Besides this the Detaining Authority has also taken into consideration the statements made by certain witnesses against the detenu's antisocial activities with regard to the incidents dated 3.1.1996, 9.2.1996 and 21.3.1996. The detenu has been found to be engaged in unauthorised business of liquor and has been detained as bootlegger.

The detention order has been challenged on more than one grounds but the learned counsel for the petitioner has stressed that no case of breach of public order is made out. In view of the reasons given in the decision dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegation and material relied upon by the Detaining Authority against the detenu do not constitute the breach of a case of public order and at the most it can be said to be a case of law and order. The detention order therefore deserves to be quashed and set aside.

Accordingly this Special Civil Application is allowed. The impugned order of detention dated 10.6.1996 passed by the Police Commissioner, Surat City against the detenu Vasantbhai Bhagwanbhai Patil is hereby quashed and set aside. The detention of the detenu is declared to be illegal. The respondents are directed to release the detenu Vasantbhai Bhagwanbhai Patil and set him at liberty forthwith if not required in any other case. Rule 3 is made absolute.

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